

GENOVEVA R. JABONETE, ET AL., PLAINTIFFS, VS. JULIANA MONTEVERDE, ET AL., DEFENDANTS, ANTONIO LEGASPI, RESPONDENT AND APPELLANT, DEVELOPMENT BANK OF THE PHILIPPINES, PETITIONER ...

G.R. No. L-17482. March 31, 1966

Ponente: REGALA, J.

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REGALA, J.:

This is an appeal from an order of the Court of First Instance of Davao, dated March 11, 1960, finding the respondent-appellant, Antonio Legaspi, guilty of contempt of court, and imposing upon him a fine of P100.00.

On March 11, 1954, the Court of First Instance of Davao, in view of its finding in Case No. 824, entitled Jabonete v. Monteverde et al., that Antonio Legaspi acquired the lot in question with the knowledge that a "gravamen" or easement of right of way existed thereon, promulgated a decision the dispositive portion of which reads:

"Ordena al demandado Antonio Legaspi la demolicion de la parte del corral construido a lo largo de su terreno que impide a lote demandantes tener acceso con la vereda que comunica con la carretera principal, Tomas Claudio.

"Declara que los demandantes tienen derecho el uso de la vereda (Exh. A-3), de 3 metros de ancho, unico paso que disponen para comunicarse con la Calle Tomas Claudio, para el paso de sus jeeps, y los vehiculos, reparados que entran y salen del taller de reparacion de aquellos."

The respondent-appellant received a copy of the above decision on May 12, 1954. Two days later, May 14, 1954, he filed his notice of appeal therefrom. On May 21, 1954, however, upon a previous motion of the plaintiffs, the lower court issued an order granting discretionary execution of the said decision. In view of this last mentioned order, the plaintiffs immediately proceeded to the premises in question and opened in the fence of the defendant Antonio Legaspi a sufficient opening for the passage of men and vehicles. Even then, however, the defendant filed with the court below on that very same day, May 21, 1954, a motion for the reconsideration of the order granting discretionary execution. Thereafter, and upon the lower court's suggestion, the parties entered into an amicable agreement which was later embodied in an order or "auto" dated May 24, 1954, to wit:

"A raiz de la mocion del demandado pidiendo entre otras cosas, la reconsideracion de la orden de ejecucion de la decision dictada en esta causa, el 22 del May de 1954, el Juez que preside esta sala se constituyo para una inspeccion ocular en el lugar en conflicto.

"Durante la inspeccion ocular, los demandantes y demandado, Antonio Legaspi, llegaron a un acuerdo:

"1. Los demandantes no instalaran en su terreno su taller de reparacion de vehiculos de motor.

"2. Los demandantes pueden construir su garaje dentro de su terreno para su jeep (AC), pero no los tendran parados en la calle privada del demandados construida por este en su terreno a lo largo del terreno de los demandantes;

"3. Los demandantes contribuirán a prorata con el demandado los gastos de reparación de la calle privada construida por el referido demandado en su terreno a lo largo del terreno de los demandantes.

"4. El demandado, Antonio Legaspi, permitirá el uso y paso en la calle privada construida por el en su terreno a lo largo del terreno de los demandantes, a estos, su familia, sus amigos, chofers, servidumbre y de sus jeeps.

"5. Para los fines del uso de la calle, el demandado permitirá a los demandantes, frente de la casa de estos, abrir una puerta de 4 metros de ancho en el corral construido por el demandado que separa la calle privada y el terreno de los demandantes, a su (demandantes) costa; sus hojas tendrán por dentro, que los demandantes tendrán cerradas para evitar que los niños, hijos de los inquilinos del demandado tengan acceso a los jeeps de los demandantes, cuyo garaje tendrán dentro de su (demandantes) terreno.

"El Juzgado ordena a las partes litigantes cumplan estrictamente con lo estipulado; de lo contrario, los mismos estarán sujetos a las ordenes de este Juzgado."

As a result of the above agreement and Order of May 24, 1954, the defendant abandoned the prosecution of his appeal. At the same time, both parties complied with its terms until the plaintiffs, unable to continue with their repair shop, transferred to another place in December 1959 whereupon the defendant reconstructed his fence and its footing, closing thereby the opening previously made by the plaintiffs.

In the course of time, the plaintiffs' lot was foreclosed by the Development Bank of the Philippines (DBP) which, later still, conveyed it under a conditional sale to Mrs. Luz Arcilla. On her acquisition of the said lot, Mrs. Arcilla demanded of the defendant the re-opening of the fence in question as it was her plan to construct her house in the said lot. When the defendant refused, the Development Bank filed with the lower court a petition to hold the said defendant in contempt. To this petition, Mrs. Luz Arcilla later intervened and was so allowed by the lower court. The Development Bank of the Philippines and Mrs. Luz Arcilla contended that the refusal of the defendant to cause or allow the making of an opening in his fence was a defiance of the said court's decision of March 11, 1954 and was, therefore, contemptuous. After due hearing, the lower court sustained the petitioners and found the defendant guilty of contempt with orders "to pay a fine of One Hundred Pesos (P100.00) and to open the vereda or alley leading to the lot owned by the Development Bank of the Philippines and conveyed to Mrs. Luz S. Arcilla under a conditional deed of sale, otherwise he should be imprisoned until he does so." Thus, the instant appeal.

The respondent-appellant maintains that the lower court erred in finding him guilty of contempt because:

- The decision of March 11, 1954 was novated by the order of May 24, 1954. Consequently, he could not have violated the former decree since with its novation it ceased to have any legal effect.
- Even assuming that the said decision was not novated by the subsequent order of May 24, 1954, still he could not be deemed to have violated the said decision because the same never became final and executory. The respondent appellant argued that since the decision of March 11, 1954 ordered the opening of a right of way in his property without providing for the corresponding compensation to him, contrary to Article 649 of the Civil Code^[1], there was in the said decision "a void which ought to be filled or to be done in order to completely dispose of the case. It was not clear, specific and definitive," and consequently, a judgment that could not have acquired finality.
- The right to file contempt proceedings against him, with respect to the decrees contained in the decision of March 11, 1954, has prescribed. The respondent-appellant conceded that there is no prescriptive period for the institution of contempt proceedings. However, he contended that inasmuch as contempt under Rule 64 of the Rules of Court is punishable by arresto mayor, it should prescribe in five years just as crimes for which the said penalty is imposed prescribe, under the penal code, in five years.

Without passing on the merits or demerits of the foregoing arguments, this Court believes that the order finding the respondent-appellant guilty of contempt should be reversed. It is clear that the order of May 24, 1954 superseded and was fully intended by the lower court to modify or stand in substitution of the decision of March 11, 1954. More than the expression of the parties' amicable agreement on the dispute, the said order was the lower court's resolution of the respondent-appellant's motion for reconsideration of the decision of March 11, 1954. In the determination, therefore, of the said appellant's obligation relative to the easement in question, the latter and not the decision of March 11, 1954 is the proper point in reference.

Under the aforesaid order of May 24, 1954, the easement awarded or secured by the lower court to the plaintiffs was strictly a personal one. The right of way granted was expressly limited to the latter and their "family, friends, drivers, servants and jeeps." In the very language of the agreement the following appears:

"El demandado, Antonio Legaspi, permitira el use y paso en la calle privada construida por el en su terreno a lo largo del terreno de los demandantes, a estos, su familia, sus amigos, chofers, servidumbre y de sus jeeps."

The servitude established was clearly for the benefit alone of the plaintiffs and the persons above enumerated and it is clear that the lower court, as well as the parties addressed by the said order, did not intend the same to pass on to the plaintiffs' successors-in-interest. In other words, the right acquired by the original plaintiffs was a personal servitude under Article 614 of the Civil Code, and not a predial servitude that inures to the benefit of whoever owns the dominant estate.

In resisting the extension of the aforementioned easement to the latter, the plaintiffs' successors-in-interest, the respondent-appellant, therefore, was not defying the decision of March 11, 1954 which was then no longer subsisting, nor the order of May 24, 1954 since the said successors-in-interest had no right thereunder.

Another evidence that the servitude in question was personal to the plaintiffs is the fact that the same was granted to the latter without any compensation to the respondent-appellant.

Wherefore, the order of the lower court dated March 11, 1960 finding the respondent-appellant guilty of contempt is hereby reversed, without pronouncement as to costs.

Bengzon, C.J., Concepcion, Reyes, J.B.L., Barrera, Makalintal, Bengzon, J.P., Zaldivar, and Sanchez, JJ., concur.

[1] Art. 649. "The owner or any person who by virtue of a real right may cultivate or use any immovable, which is surrounded by other immovables pertaining to other persons without adequate outlet to a public highway, is entitled to demand a right of way through the neighboring estates, after the payment of the proper indemnity."

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